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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 311 of 1999

in

SPECIAL CIVIL APPLICATIONNo 1264 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

Y G SHAIKH

Versus

STATE OF GUJARAT

Appearance:

1. LETTERS PATENT APPEAL No. 311 of 1999

MR DP VORA for Appellant No. 1

(MR RAVI R TRIPATHI) for Appellant No. 1

MR SP SEN, AGP for Respondent No. 1

..... for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE P.B.MAJMUDAR

Date of decision: 24/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

#. Admitted. Mr.S.P.Sen, learned AGP waives service of notice on behalf of the respondents. Having regard to the facts of the case, the appeal is taken up for final disposal today.

#. By filing this appeal under Clause 15 of the Letters Patent Appeal, the appellant has challenged the legality of the order dated February 18, 1999 passed by the learned Single Judge in Special Civil Application No.1264 of 1999 by which the petition is dismissed in limine and the appellant is directed to pay a sum of Rs.2500/- by way of costs of the petition.

#. Heard the learned counsel for the parties. In view of the judgement of the learned Single Judge in Special Civil Application No.6992 of 1996 decided on July 21, 1997 the learned counsel for the appellant has not pressed the appeal on merit, but states that there was no suppression of facts by the appellant, and therefore, direction given by the learned Single Judge to the appellant to pay a sum of Rs.2500/- by way of costs should be set aside by this Court.

#. A bare reading of the judgment impugned in the appeal makes it manifest that the learned Single Judge has directed the appellant to pay a sum of Rs.2500/- by way of costs because the learned Single Judge was of the view that the reliefs claimed in the petition were earlier refused and in spite of that the present petition was filed by the appellant by misleading the Court and wasting the administrative as well as judicial time of the Court. A bare reading of the petition filed by the appellant makes it evident that the appellant has in terms referred to the order passed by the learned Single Judge in Special Civil Application No.6992 of 1996. Even a simple copy of the order passed by the learned Single Judge in Special Civil Application NO.6992 of 1996 was also produced on the record of the present petition. Under the circumstances, it is difficult to conclude that any attempt was made by the appellant to mislead the Court. Under the circumstances, the direction given by

the learned Single Judge to the appellant to pay a sum of Rs.2500/- by way of costs deserves to be set aside.

#. For the foregoing reasons, the appeal partly succeeds. The order passed by the learned Single Judge on merits is not interfered at all, but the direction given by the learned Single Judge to the appellant to pay a sum of Rs.2500/- by way of costs is set aside. The appeal is accordingly partly allowed with no order as to costs. Direct service is permitted.

(J.M.Panchal,J) (P.B.Majmudar,J)

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